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Planning Commission Staff Report

TO: PLANNING COMMISSION

FROM: JORDAN FELD, AICP, SENIOR PLANNER ^{DF}
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THROUGH: CATHERINE LORBEER AICP, PRINCIPAL PLANNER ^{ajl}
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MEETING DATE: DECEMBER 3, 2014

SUBJECT: Z13-11, BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.303 LAND USE REGULATIONS, TABLE 2.303 LAND USE REGULATIONS – COMMERCIAL DISTRICTS, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; ARTICLE 2.7 PUBLIC FACILITY/ INSTITUTIONAL DISTRICT, SECTION 2.702 LAND USE REGULATIONS, TABLE 2.702 LAND USE REGULATIONS – PUBLIC FACILITY/INSTITUTIONAL DISTRICT, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES; AND TO AMEND DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, TO REVISE THE DEFINITION FOR "HOSPITAL" TO INCLUDE FACILITIES OFFERING BEHAVIORAL HEALTH SERVICES.

STRATEGIC INITIATIVE:

Community Livability

This text amendment seeks to provide consistency and compatibility for future development of hospitals in the Town and the range of critical community health services they provide, which are imperative to the Strategic Initiative of Community Livability.

RECOMMENDED MOTION

FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z13-11.

BACKGROUND/DISCUSSION

History

<i>Date</i>	<i>Action</i>
<i>July 3, 2013</i>	Planning Commission discussed the proposed Behavioral Health Hospital text amendment and conducted the Citizen Review meeting, but did not initiate the text amendment.
<i>December 4, 2013</i>	Planning Commission conducted a second Citizen Review meeting and initiated this text amendment.
<i>March 5, 2014</i>	Planning Commission discussed the proposed Behavioral Health Hospital text amendment and continued the case to the April 2, 2014 Study Session for further discussion.
<i>April 2, 2014</i>	Planning Commission held a Study Session to discuss the possible text amendments.
<i>May 7, 2014</i>	Planning Commission held a Public Hearing and tabled the proposed text amendments to allow for the formation and input of a stakeholder group.
<i>October 1, 2014</i>	Planning Commission held a Study Session to discuss the findings of the stakeholder group.
<i>November 5, 2014</i>	Planning Commission held a Study Session to review the preliminary staff recommendation and provide further direction.

Overview

At the Planning Commission's May 7, 2014 meeting, the Planning Commission held a public hearing to consider making a recommendation to the Town Council on Z13-11, a proposed text amendment to the Land Development Code dealing with the regulation of behavioral health hospitals. The Planning Commission voted unanimously to table Z13-11 to allow staff additional time to work on the text amendment with concerned citizens and stakeholders interested in behavioral health facilities. A behavioral health text amendment stakeholder group was formed in June of 2014 and met three times over the summer. Staff presented the findings of the group at the October 1, 2014 Planning Commission Study Session. Of particular consequence to drafting a text amendment were the following concepts (taken from the formal findings):

- Significant community input has emphasized the need to limit or require separation for behavioral health facilities, especially in proximity to schools and day care uses.
- Heightened/defensible review is needed to provide opportunity for community dialogue when a hospital is proposed.
- Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.
- In urban areas, it's not uncommon for hospitals and sensitive lands uses to be integrated or located within close proximity.
- In practice, ADA prevents dissimilar regulation of like-medical care land uses. In-patient behavioral health facilities are considered as hospitals by the Gilbert Land Development Code (consistent with State Statute).

During the October Study Session, several land use analysis maps were also discussed. These maps indicated the potential impact of applying 500' and 1,000' separation requirements to parcels that could potentially support hospital development; the general conclusion from this analysis is that 1,000' separation may significantly and unnecessarily limit the ability for new hospitals to locate in the Town. Moreover, the 500' separation is more consistent with existing LDC separation regulations that intend to minimize line-of-sight, as opposed to separation requirements intending to mitigate concentration of use. Another point of consideration is the measurement criteria for the distance requirement; to ensure all potential hospital development provides an absolute minimum separation of 500' (with no reduction available for ROW, utilities, or building-to-building measurements), the separation measurement is drafted to consider only the proximity of one use's nearest property line to another use's nearest property line.

Additionally, these maps showed the location of the Town's General Plan Growth Areas where staff is recommending, based on the stakeholder group findings, that hospital regulations be relaxed to provide incentives for Health Care Facilities like hospitals to develop in the Town's existing and planned urban cores.

Consistent with the stakeholder group's main finding, staff has also recommended that proposed hospitals located outside of a Growth Area be required to go through the Conditional Use Permit process for all zoning districts that permit hospitals. The stakeholder group also communicated an interest in prohibiting future hospital development in the General Commercial (GC) zoning

district, which currently allows hospitals by right. Staff carefully considered this concept and ultimately found that applying the Conditional Use Permit and Day Care & School separation requirements would protect the community's interests while not precluding the ability for future smaller scale hospitals to locate in the Town. Please note that the exhibit depicting a 500' separation shows that GC parcels already within 500' of a school or day care could not accommodate a new hospital.

The vast majority of vacant GC parcels are located in the Growth Areas and with the regulatory incentives envisioned with this text amendment (zoning flexibility for hospitals proposed in Growth Areas), its logical to predict more intense hospitals (that are also less compatible within a residential setting) will develop in the Growth Areas and be much less likely to seek out smaller, more isolated, GC parcels outside of the Growth Areas.

Finally, the definition of Hospital has been modified to include the specific terminology used in Title 9 "Health Services" of Arizona Administrative Code which distinguishes between "Physical health services" and "Behavioral health services". The intent of the Hospital land use category is to allow in-patient care for physical or behavioral health services; clarifying text has been recommended to ensure this objective.

Planning Commission Study Session (November 5, 2014)

The Planning Commission held a Study Session on this item at its regular meeting November 5, 2014. The preceding text amendment "legislative edit", as prepared by staff, was reviewed in depth at that Study Session. The Planning Commission seemed to be in general agreement that the definition of hospital, as recommended, was appropriate. However, significant discussion ensued regarding the proposed separation requirements, proposed Use Permit requirements and the objective of providing incentives for hospital development by not requiring a Use Permit or separation for hospitals developing in Growth Areas. Based on this discussion, the Planning Commission asked staff to present possible options or alternatives to the staff recommendation. The following discussion presents additional details supporting the staff recommendation as well as suitable modifications or alternatives the Planning Commission may wish to consider.

RATIONALE FOR GROWTH AREA INCENTIVES

1. The majority of the community, by way of the General Plan Update's successful voter-approval, feels that Gilbert should grow in a way that maintains its neighborhood character while also allowing for the logical designation of growth areas reflective of a more urban character that can support diversity of employment, services and housing and better leverage existing and planned major infrastructure investment.
2. The General Plan specifically envisions the development of target industry within designated Growth Areas.
3. The health-services and health-technology sectors are strategic economic development targets industries.
4. Urban character land uses can be integrated in ways and achieve compatibility using design methods that are not practical in more suburban or rural development settings; specifically, it is not uncommon to find hospitals in urban areas that are nearby or collocated with a variety of uses, including daycares and schools.

5. Encouraging hospital development and supporting development in the Growth Areas helps to implement emerging community health policy goals that emphasize the importance of integrated health care; establishing medical service “clusters” in the Town will benefit the community’s access to, and likely quality of, healthcare.

Staff Objective: Foster hospital development where the community expects this level of intensity-in-use to locate and where these uses create positive synergy.

RATIONALE FOR SEPARATION REQUIREMENTS

1. Some members of the community would prefer a minimum separation between hospitals and school/daycare land uses to limit line-of-sight between these activities.
2. School/daycare uses can locate in any zoning district; this is a critical element to this discussion as hospital uses today are allowed in districts that provide more restrictive compatibility regulations when development is adjacent to residential district and provide less restrictive compatibility regulation when development is adjacent to non-residential districts (an outcome of this could be minimal buffer yards between adjacent hospital and school/daycare land uses).
3. A minimum separation provides the Planning Commission with a reference point for evaluating future Use Permit applications. Without a separation minimum, it is unclear what distance outcomes will be expected with future hospitals.
4. A minimum separation helps to ensure hospitals are evaluated equally with respect to federal ADA requirements (future hospital approvals that carry varying separation requirements may not be defensible).
5. The separation requirement doesn’t remove the ability to reduce the separation through a Planned Area Development (PAD) or variance if unique circumstances were present and the Planning Commission or Zoning Hearing Officer (ZHO) found a reduced separation was otherwise appropriate.
6. The more restrictive separation requirement for Town-wide hospital development sets up a significant incentive for hospitals to locate in growth areas (an objective based on stakeholder group findings), if the separation requirement is relaxed or removed for growth areas.
7. The 500’ separation recommended by staff appears to address the line-of-sight concern while maintaining a good balance within the range of separation standards already utilized by the Land Development Code. These separation standards include items like building setbacks (75’ to property line) when commercial land uses abut residential land uses, special activity setbacks (like bee-keeping, 100’ to property line), the typical neighborhood notification area distance (300’), sensitive land use separation standards in place today (such as the 500’ separation required between a tattoo parlor and a daycare or the 1,320’ separation required between sexually-oriented businesses and schools).

Staff Objective: Establish a single, minimum separation requirement for all hospital development in areas of the Town where the anticipated growth character is suburban or rural.

RATIONALE FOR USE PERMIT REVIEW

1. Some members of the community are concerned that hospital uses contain a variety of activities and operational characteristics potentially incompatible with neighborhoods; because of this wide-ranging potential for development outcomes and impacts, the community believes that any specific hospital development should be carefully analyzed for use compatibility.
2. The Conditional Use Permit review process allows for the public to review and comment on the specific merits or impacts any particular hospital development may have.
3. The Conditional Use Permit review process allows for the Planning Commission to prescribe site-specific development regulations for a proposed use, even if the use and its standards are already addressed by the base zoning district.
4. Two, of the five, base zoning districts allow hospital development with a Conditional Use Permit today; staff is not aware of any community desire to remove these requirements.
5. Hospital land uses have measurably different characteristics than those land uses typically developed in the base zoning districts that allow hospitals; this characteristic suggests the need for use permit review.
6. Placing use permit review requirements across all base districts that allow hospitals helps to ensure procedural fairness in hospital development with respect to community input and transparency.

Staff Objective: Provide opportunities for enhanced public notification and input when hospital development is proposed in areas where neighborhood compatibility is likely to be a community concern.

ADDITIONAL DISCUSSION

Staff finds that some separation minimum should be established and that a conditional use permit process, which ensures community input is received early in the development process is a reasonable requirement for new hospital development. There are alternative methods to address separation. There is a range of distances that arguably achieve line-of-sight goals, particularly in consideration of buffering through site design when two incompatible uses are adjacent. Separation standards ranging from 150' to over a quarter-mile are common, as previously reviewed, in comparative zoning regulations dealing with sensitive land uses. Another useful comparison is the more common restriction and basic control of the Land Development Code which requires a 75' property line building setback and 40' landscape yard when intense commercial or industrial development is adjacent to residential development. Minimum distances between hospitals and incompatible land uses are less common in contemporary zoning regulation, as often the perimeter setback standards in districts that allow hospitals are sufficient to address adjacent land use compatibility. When separation standards are measured from property lines their impact tends to overregulate incompatible land uses so the minimum standard needs to reflect a greater range of parcel configurations (and impacts).

The use permit process allows for additional site scrutiny for a given land use; often the use permit approval is a valuable mechanism for attaching conditions of development not possible through ministerial review. The conditional use permit process is intended to allow for the public's notification and input in applying additional site scrutiny and forming potential conditions of development. This process may overregulate incompatible land uses so their

application is often limited to specific land uses in specific zoning districts where the land use itself has characteristics significantly different than other land uses allowed by the district. Specific findings of fact must also be met through the conditional use permit approval process.

Given that the Planning Commission discussion at Study Session seemed to focus on town-wide overregulation aspects of this text amendment (as proposed by staff), a hybrid-approach may be appropriate; an example of a hybrid-approach would be the establishment of a minimum standard for separation and any proposed hospital within that separation distance would be required to receive a use permit and outside the minimum separation the hospital would be allowed by right. The hybrid-approach does provide the Planning Commission with an additional range or combination of regulation and process controls to consider. Additional options for consideration would be modification of required buffer yards, screening elements or site design measures to ensure context compatibility; these standards could be used in-lieu of or complimentary to a separation requirement.

SUMMARY

While the staff recommendation remains unchanged from the November Study Session, the Planning Commission may wish to consider a range of alternatives to the staff recommendation as briefly identified in the Additional Discussion and as informed by the public input anticipated for the public hearing, the stakeholder group findings and the objectives of this proposed text amendment in determining if any additional hospital development regulations are necessary to ensure the community's efficient growth.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites within a zoning district that permits Hospitals (GC, RC, GO, BP and PF/I) and in a General Plan designated Growth Area. In addition, Hospitals would be allowed in the GC, RC, GO, BP and PF/I zoning districts outside of Growth Areas with a Conditional Use Permit. The five tables below show the amendments for each zoning district currently permitting Hospitals.

Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.3 Commercial Districts, Section 2.303 Land Use Regulations, Table 2.303 Land Use Regulations – Commercial Districts

Table 2.303 Land Use Regulations – Commercial Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

Table 2.303: Land Use Regulations – Commercial Districts

<i>Use Classification</i>	<i>NC</i>	<i>CC</i>	<i>SC</i>	<i>GC</i>	<i>RC</i>	<i>Additional Regulations</i>
Health Care Facilities <i>Hospital</i>	--	--	--	<u>L9P</u>	<u>L9P</u>	<u>SEE SECTION 4.5016</u>
<i>Urgent Care Facility</i>	P	P	P	P	P	

<i>Medical Offices and Clinics</i>	P	P	P	P	P	
* * *						
Limitations						
* * *						
<u>L9 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u>						
* * *						

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with GO zoning in a General Plan designated Growth Area, and referencing additional requirements for that use.

Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.5 Office Districts, Section 2.503 Land Use Regulations, Table 2.503 Land Use Regulations – Office Districts

Table 2.503 Land Use Regulations – Office Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

Table 2.503: Land Use Regulations – Office Districts

<i>Use Classification</i>	<i>NO</i>	<i>GO</i>	<i>Additional Regulations</i>
* * *			
Health Care Facilities <i>Hospital</i>	--	<u>L8U</u>	<u>SEE SECTION 4.5016</u>
<i>Urgent Care Facility</i>	U	P	
<i>Medical Offices and Clinics</i>	P	P	
* * *			
Limitations			
* * *			
<u>L8 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u>			
* * *			

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with BP zoning and in a General Plan designated Growth Area, and referencing additional requirements for that use.

Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.6 Employment Districts, Section 2.603 Land Use Regulations, Table 2.603 Land Use Regulations – Employment Districts

Table 2.603 Land Use Regulations – Employment Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

Table 2.603: Land Use Regulations – Employment Districts

<i>Use Classification</i>	<i>BP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
* * *				
Health Care Facilities <i>Hospital</i>	<u>L9U</u>	--	--	<u>SEE SECTION 4.5016</u>
<i>Medical Offices and Clinics</i>	P	--	--	
* * *				
Limitations				
* * *				
<u>L9 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u>				
* * *				

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with PF/I zoning in a General Plan designated Growth Area, allowed in the PF/I zoning district (outside of Growth Areas) with a Conditional Use Permit and referencing additional requirements including the 500' separation noted in Section 4.5016 .

Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.7 Public Facility/ Institutional District, Section 2.702 Land Use Regulations, Table 2.702 Land Use Regulations – Public Facility/ Institutional District

Table 2.702 Land Use Regulations – Public Facility/ Institutional District is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

Table 2.702: Land Use Regulations – Public Facility/ Institutional District

<i>Use Classification</i>	<i>PF/I</i>	<i>Additional Regulations</i>
* * *		
Health Care Facilities <i>Hospital</i>	<u>L6 P</u>	<u>SEE SECTION 4.5016</u>
<i>Urgent Care Facility</i>	P	
* * *		
Limitations		

* * *

L6 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).

* * *

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be located a minimum distance of 500' from Day Care and School uses, unless the Hospital is located within in a General Plan designated Growth Area in which case there is no separation requirement.

Chapter 1 Zoning Regulations, Division 4 General Regulation, Article 4.5 Supplemental Use Regulations

Article 4.5 Supplemental Use Regulations is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

Article 4.5 Supplemental Use Regulations

Sections

* * *

4.5015 Recovery Residence
4.5016 **HOSPITALS**
4.5016~~17~~ Miscellaneous Provisions

* * *

4.5016 HOSPITALS

- A. PURPOSE. THE PURPOSE OF THESE REGULATIONS IS TO ENSURE COMPATIBILITY BETWEEN HOSPITALS, DAYCARE AND SCHOOL USES.**
- B. GENERAL PLAN GROWTH AREAS. THE GENERAL PLAN DESIGNATES GROWTH AREAS IN THE TOWN THAT ARE APPROPRIATE FOR URBAN-CHARACTER LAND USE INTEGRATION. HOSPITALS IN GENERAL PLAN GROWTH AREAS ARE NOT SUBJECT TO THE LOCATION REQUIREMENTS CONTAINED IN THIS ARTICLE.**
- C. LOCATION REQUIREMENTS. HOSPITALS SHALL BE A MINIMUM DISTANCE OF 500 FEET FROM DAYCARE AND SCHOOL USES. MEASUREMENTS SHALL BE MADE IN A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT ON THE PROPERTY LINE OF A PARCEL CONTAINING A HOSPITAL TO THE NEAREST POINT ON THE**

PROPERTY LINE OF A PARCEL CONTAINING A DAYCARE OR SCHOOL USE.

4.501617 Miscellaneous Provisions

* * *

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to clarify the land use definition for Hospitals to ensure this use allows for facilities that provide in-patient physical or behavioral health services.

Chapter 1 Zoning Regulations, Division 6 Use Definitions, Article 6.1 Use Definitions

Article 4.5 Supplemental Use Regulations is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

* * *

Health Care Facilities.

Hospital. A facility licensed by the State of Arizona that provides **IN-PATIENT PHYSICAL AND BEHAVIORAL HEALTH SERVICES THROUGH THE** diagnosis and treatment of patients ~~and inpatient care~~ by a medical staff.

* * *

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

The current recommendation by staff, if the Planning Commission desires to go forward, will need to be re-advertised for a future public hearing as certain changes being proposed were not included in the original notification.

STAFF RECOMMENDATION

For the following reasons: the proposed amendments 1) will clearly identify inpatient behavioral health care as a type of hospital, thus ensuring that Gilbert provides locations for this type of health care facility; 2) will address issues of compatibility of hospital uses through a conditional use permit and flexibility in General Plan Growth Areas; and 3) will separate hospital uses from the sensitive uses of schools and day care centers; the Planning Commission moves to recommend approval to the Town Council for Z13-11, a request to amend the Land Development Code:

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jordan Feld', with a stylized, flowing script.

Jordan Feld, AICP
Senior Planner

Attachments:

Attachment 1

Draft Meeting Summary, Planning Commission Study Session 11/5/14

**TOWN OF GILBERT
PLANNING COMMISSION STUDY SESSION
GILBERT MUNICIPAL CENTER, 50 E. CIVIC CENTER DRIVE, GILBERT AZ
NOVEMBER 5, 2014**

COMMISSION PRESENT: Chairman Joshua Oehler
Vice Chairman Kristofer Sippel
Commissioner David Blaser
Commissioner Carl Bloomfield
Commissioner David Cavenee
Commissioner Brent Mutti
Commissioner Jennifer Wittmann

COMMISSION ABSENT: None

STAFF PRESENT: Planning Services Manager Linda Edwards
Senior Planner Jordan Feld
Senior Planner Amy Temes
Planner Nicole McCarty

ALSO PRESENT: Town Attorney Jack Vincent
Recorder Margo Fry

CALL TO ORDER

* * *

Z13-11 - Request to amend the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Division 2 Land Use Designations, Article 2.3 Commercial Districts, Section 2.303 Land Use Regulations, Table 2.303 Land Use Regulations - Commercial Districts, to require a Conditional Use Permit for Hospitals; Article 2.7 Public Facility/Institutional District, Section 2.702 Land Use Regulations, Table 2.702 Land Use Regulations - Public Facility/Institutional District, to require a Conditional Use permit for Hospitals; and to amend Division 4 General Regulations, Article 4.5 Supplemental Use Regulations to provide separation requirements for hospitals from certain other uses; and to amend Division 6 Use Definitions, Article 6.1 Use Definitions to revise the definition of "Hospital" to include facilities offering behavioral health services.

Senior Planner Jordan Feld stated a report was given on Z13-11 at the October study session. He said that the intent would be to modify the sections that allow hospitals today to across-the-board require a Conditional Use Permit with the exception of those sites that that are properly zoned within the General Plan designated growth areas where they will not require the Conditional Use Permit. In addition, in the growth area, they would not require the proposed separation that they are proposing for all the districts that allow hospitals outside of the growth areas. That separation would be 500 feet from day cares and schools. They will also be redefining what a hospital is in the LDC. There were approximately 20 findings from the stakeholder group that staff put into different categories. If they were to take the most key findings relative to drafting ordinance they would be the following:

- Significant community input has emphasized the need to limit or require separation for behavioral health facilities, especially in proximity to schools and day care uses.
- Heightened/defensible review is needed to provide opportunity for community dialogue when a hospital is proposed.

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- Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.
- In urban areas, it's not uncommon for hospitals and sensitive lands uses to be located within close proximity.
- In practice, ADA prevents dissimilar regulation of like-medical care land uses. In-patient behavioral health facilities are considered as Hospitals by the Gilbert Land Development Code (consistent with State Statute).

Planner Feld noted that there are seven growth areas within the Town of Gilbert and displayed a map showing the impact from a 500' separation requirement as well as 1000' separation requirement. He noted that 500' does seem workable and 1000' might start to prohibit opportunities for inpatient hospitals outside of the growth area. There is still abundant vacant land that will support hospitals. A stakeholder's group participant asked that staff identify with a little more clarity where the growth areas overlap with schools and daycare currently. The map that Mr. Feld displayed called out where the school or day care was located either adjacent to a growth area or so close that their buffer might overlap. Planner Feld noted that there were nine schools that meet that condition and two day cares that would come close to be impacted by the growth area hospital development. He stated that the limitation condition is essentially the same in each district and a Conditional Use Permit approval is required unless the site is located within The Town of Gilbert General Plan designated growth area in which case the use is permitted. Planner Feld noted that Commissioner Wittmann asked about the different ways that the separation distance could be measured and for ease of implementation as well as the idea that with the larger hospital sites they may grow over time on the same parcel, it would make more sense to measure from property line to property line as opposed to building wall to building wall. The definition of Hospital has been modified to include the specific terminology used in Title 9 "Health Services" of Arizona Administrative Code which distinguishes between "Physical health services" and "Behavioral health services". The intent of the Hospital land use category is to allow in-patient care for Physical or Behavioral health services; clarifying text has been recommended to ensure this objective. Planner Feld noted that Ms. Peterson does have some concerns with allowing even growth areas hospitals to develop without the opportunity of the public review that is granted through the Conditional Use Permit. The Design Review process also includes a public involvement opportunity, however not at the same level that the Use question provides. In the growth areas do they want additional scrutiny for a hospital use above and beyond what the DRB public hearing would require?

Commissioner Blaser said that he was of the opinion that it would not be wise to put distance restrictions on the requirement. Inherent to the CUP process it is up to the Planning Commission to determine that the project contributes to the health and well-being of the Town. There is plenty of protection within the CUP process. He referred to a map displayed by staff where in the growth areas it would be allowed by right, where they already have issues where the buffers would be overlapping. He said that the CUP provides the protection that the Town needs while encouraging development and the CUP would allow them to find out what types of services would be offered within those facilities. The Banner Behavioral Health Facility has a school on site and children are bussed to the hospital for school. That would completely disrupt that kind of business model. Commissioner Blaser encouraged the CUP process across the board, even in the growth areas.

Commissioner Cavenee asked who generated the request for the distance separation and what the basis was for it.

Planner Feld said that the regulation of hospitals in general is somewhat novel particularly since the services of the industry have evolved significantly over the last 10 years. There are not a lot of ordinances that address those issues. The idea of the separation requirement is absolutely coming out of the stakeholder group. Staff has worked with the group to help educate as to other types of uses that there are in the community that for whatever reason pose negatives externalities to a neighborhood and the separation requirements. There are separation distance ranges of 300 feet up to a quarter-mile and they are trying to find within the range of what they already have what would be a good separation and what they heard from the stakeholder group was the primary concern was line of sight. They do not want schools and daycare's to

be readily visible from specifically behavioral health facilities. Staff thinks that 500 feet is well addressed if that is the objective.

Commissioner Cavenee said to clarify; this was not common in other communities to have a distance regulation as a standard.

Planner Feld said that it was not common to have the separation requirement for hospitals.

Commissioner Cavenee said that in the future if the behavioral health facility chooses the site immediately adjacent to one of those uses, they, in the CUP process, would have to determine if they could live with that. If they had the distance separation he supposed that would mitigate that initial selection process.

Commissioner Blaser said that his concern also was that a developer comes in and says that they are meeting the distance requirement and yet as a Planning Commission or the public for whatever reason, perhaps not being comfortable with the services provided, may not be comfortable with it being near a school or day care. If the developer is meeting the distance requirement that almost strengthens their case.

Chairman Oehler said that he would be comfortable with a separation of 500 feet.

Commissioner Cavenee asked what advice they were giving to staff. Are they suggesting that a separation should be eliminated from the discussion or are they choosing one of those numbers?

Commissioner Mutti said that he appreciated Commissioner Blaser's comments regarding the restrictions; however, he was still a little unclear how this conversation jives with the ADA preventing this similar regulation. He said that he felt that the entire conversation was generating a platform for dissimilar regulation either through the requirement for a CUP or for a requirement for distance separation.

Town Attorney Jack Vincent commented that the proposed regulation would need to apply to all hospitals not just behavioral health hospitals. Counsel believes that if that were the case the Town could avoid offending the ADA.

Commissioner Mutti said that it was good to have that resolved; however, he would still echo Commissioner Blaser's comments on the distance restrictions; to not have them but to go through the CUP process and allow that to govern judgment.

Commissioner Cavenee said that if they open it up to a pure Conditional Use Permit evaluation they could put themselves in a position of setting disparate rules that make it harder to do anything.

Commissioner Blaser stated that once it becomes a public process similar to the behavioral health hospital that came forward a couple of years ago, they found that through the public process it did not make sense to develop at that particular location. The public basically ran them out based on the types of services that would be provided and the proximity to the school.

Commissioner Cavenee said that he believed part of the reason they were going through this was to avoid that type of interaction again. They should try to establish some rules that would prevent that public lynching process. Commissioner Cavenee said that he did not know that he was in favor of either yet as he was still trying to sort it out as to what might be best and was very compelled by Commissioner Blaser's comments. Yet he saw the public study group and what they found to be of value as well.

Chairman Oehler said that if they'd did have the 500' separation was that something that for special circumstances could be looked at so that if they did have a school inside a hospital have they set something that is not a deviation.

Ms. Edwards said that a school can choose to locate within or near a hospital.

Chairman Oehler said if they have this set and they have a school and a hospital and they needed to add an additional use to it but they have the school there.

Ms. Edwards said that the example is that an existing hospital has a school use in it and if the hospital chooses to expand if there were separation requirements they would need to meet those if they were outside the growth area as proposed.

Chairman Oehler asked if there was a way, in special circumstances, to create a deviation from that if they if they set a separation distance.

Ms. Edwards said that the Land Development Code does not provide either through a variance for PAD restriction or addition of uses.

Chairman Oehler said that he wanted to make sure so if they did set the 500' separation.

Vice Chairman Sippel said that the situation that the Commissioner shared was the behavioral health school within the hospital. This has to do with if a hospital wants to locate within a 500' radius of a school or day care. The school or day care could choose to come into the radius. In that case the hospital could choose to add a behavioral health unit to it with the school which would be acceptable.

Planning manager Edwards said that the fine line is that if the hospital truly expands within the building envelope versus an entire new campus nearby or on an adjacent parcel. That is splitting hairs but once they have a regulation they will look at it closely with that example in mind.

Planner Feld added that a separation requirement is always available for a variance for whatever reason.

Vice Chairman Sippel said that he would support a 500' radius.

Commissioner Bloomfield said that it sounded as though they need to have some sort of separation to throw caution out there for future developers of this type of use. They have had experience with the public really not liking this and perhaps they should reduce the separation distance down to 200 feet just so that they do not have so many places where it becomes unusable but it still sends a caution to the developers so they don't come in and spend a lot of time and effort and then get their hats handed to them and sent packing. Commissioner Bloomfield said in terms of the growth areas and non-growth areas he agreed that in the growth areas seemed that it would be a good place to put such a facility because the infrastructure is already there to handle more people coming in and out of those locations and that is why it's a growth area. His overall recommendation was to reduce the 500' down to 200' as a cautionary for the developers.

Planner Feld said that at the public hearing in December they will be hearing a lot more testimony.

Chairman Oehler stated that due to the lateness of the hour they would hear item number 4, Z14-15C, after the close of the Regular Meeting.

Discussion of Regular Meeting Agenda

Vice Chairman Sippel stated that they would move item 8, S14-07 and item 9, S14-10 to the Non-Consent Regular Public Hearing.

Chairman Oehler recessed the meeting at 6:05 p.m.

Chairman Oehler reconvened the meeting at 7:00 p.m.

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